



Appeal Decision

Hearing held on 4 November 2021

Site visit made on 5 November 2021

by Paul Thompson DipTRP MAUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 January 2022

Appeal Ref: APP/W2465/W/20/3264415

101-107 Mary Gee Houses Halls of Residence, Ratcliffe Road, Leicester, LE2 3TE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Andrew Green (Gladman Retirement Living Ltd) against the decision of Leicester City Council.
 - The application Ref 20190433, dated 26 February 2019, was refused by notice dated 9 October 2020.
 - The development proposed is described as 'Proposed Development for Specialist Accommodation for the Elderly consisting of apartments with care, communal facilities, parking and associated private amenity space'.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. At the Hearing there was some discussion about whether application drawing number 0009-P1-132 Rev C could be withdrawn. However, interested parties' comments were made on the basis of the application drawings and the Council made its determination on the basis of its content. In the interests of fairness and natural justice, I consider that interested parties in particular would be prejudiced if I were not to consider the drawing, as it provides clarity as to the approach to architectural detailing and the palette of materials. As those aspects of the proposal may not otherwise be evident, my findings relate to the scheme as determined by the Council.
3. The National Planning Policy Framework was revised on 20 July 2021 (the Framework). The main parties discussed the relevance of the revised content of the Framework at the Hearing and I am satisfied that the revisions do not significantly alter the policies upon which this appeal turns.

Main Issue

4. The main issues are whether the proposed development would constitute high quality design and its effect on the character and appearance of the site and its surroundings, including the Stonegate Conservation Area and the setting of the Grade II* listed building, known as Inglewood.

Reasons

Site and surroundings, and significance and setting of designated heritage assets

5. The appeal site comprises the purpose-built student accommodation blocks and landscaped setting of the Mary Gee Houses Hall of Residence, which were constructed in the early 1970s, but are no longer in use and now lay empty. The blocks are of three storeys and a simple appearance with few architectural details, other than an irregular rhythm to the façades. They are finished in brick and steel Crittal window frames, beneath shallow hipped roofs clad in concrete interlocking tiles. The blocks are staggered and/or split and arranged in a spacious manner within generally soft landscaped surroundings, laid to grass, with mature tree and hedge planting close to the buildings at the perimeter and throughout. This creates a verdant backdrop to the blocks.
6. The site is situated within the South Stoneygate sub-area of the Stoneygate Conservation Area (CA), which covers an extensive area to the south of the city. The area is formed of a rich tapestry of predominantly two and three storey houses and other buildings with varied architectural qualities and detailing, but largely developed in the late Victorian and Edwardian period by renowned local architects. The high quality of architecture, the broadly consistent form of the roofscape, broken by gables, turrets, dormers and chimneys, and cohesion in the use of red brick, slate, and timber, all illustrate the importance of the area to the 19th century growth and expansion of the city as production of hosiery and footwear boomed. Moreover, the qualities of the CA were recognised by the Council in 2007, when it introduced an Article 4 Direction¹ (A4D). As a result, alterations to properties no longer benefit from permitted development where these impact elevations facing a highway.
7. There are few dedicated public open spaces within the CA, but the loose urban grain formed of the spaces between houses and other buildings, the presence of mature planting therein and the trees within the streets, mean that the houses and buildings within many parts of the CA are viewed through and against the backdrop of verdant environs.
8. To the east of the site is Ratcliffe Court, which includes a pair of three-storey zigzag blocks of residential flats. These are comparable in scale to the student accommodation within the site but incorporate flat roofs. The success of modern infill development has been mixed with some exhibiting high architectural qualities, such as 36-38 Knighton Drive.
9. In so far as it relates to the appeal, the significance of the CA today lies at least in part in the positive contribution made by the rich legacy of historic structures, the architectural legibility of their built fabric, particularly the extent of detailing and the quality of materials used in their construction, and the spatial and landscaped qualities of the setting of the houses and buildings.
10. Immediately southwest of the site is Inglewood, a Grade II* listed building, situated at 32 Ratcliffe Road. It was originally developed in 1892 by Ernest Gimson, an eminent local Arts and Crafts architect, as a house for himself. The building incorporates a coach house and stabling range and is of two storeys, with attic rooms in the roof space. It is constructed of red brick and timber sash and casement windows beneath a steeply pitched Swithland slate roof

¹ Under The Town and Country Planning (General Permitted Development) Order 1995 (as amended) and dated 16 May 2007.

with prominent end gables detailed with a stone coping and tall narrow gabled projections to the front and rear. The roof sweeps down at the front and over sails the doorway, the elevation has a simpler appearance in comparison to the more prominently detailed façade that overlooks its large rear garden. This incorporates bay windows designed by William Keay in 1935. The significance of the listed building therefore lies in its architectural and historic interest as a particularly notable example of the Arts and Crafts movement, by one of its leading exponents, Ernest Gimson.

11. I am mindful of the Framework's definition of 'setting' as being the surroundings in which a heritage asset is experienced. In so far as is relevant to this appeal, due to the lower nature of planting and other enclosures to adjacent streets, the building has a dominant presence within its immediate context, particularly where it is visible from these streets. The setting of the building has undoubtedly changed over time, particularly as a result of recent infill development to its southeast in Elms Road. It is likely that the buildings within the appeal site were constructed around the time Inglewood was listed.
12. Given the limited architectural merit of the existing halls of residence, they could not be said to make a positive contribution to the setting of the listed building or the character and appearance of the CA. The appearance of the unused site and accommodation blocks has some negative connotations and the blocks have longer frontages than many buildings in this part of the CA. However, the architectural form and scale of the blocks is largely unassuming and they sit quietly and comfortably within the context of the domestic scale of other buildings nearby, particularly as they are similar in depth. The space between the blocks and their verdant setting are also broadly reflective of the spatial characteristics of the sub-area within the CA, a point which is perhaps best illustrated by the figure ground diagram found in the appellants' Design, Access and Sustainability Statement.
13. Given the above, while the appeal buildings add to the structure and variety of the townscape within the CA, they only make a neutral contribution to the understanding and significance of its character and appearance and to the setting of the Grade II* listed building.

The Proposal

14. The proposal is to demolish the existing accommodation blocks that comprise the Mary Gee Houses Hall of Residence and replace them with a large apartment building of contemporary urban form and style separated into two distinct typologies. The blocks at the site frontage would incorporate conventional pitched roofs, between which would be a larger flat-roofed block that would extend to the rear of the site. The blocks would be linked by a glazed corridor with a dog leg in it. The appellants have referred to the building typologies as Villas and Mansions respectively and I will also do so, but only for identification purposes.
15. The Mansions block would be of buff brick and predominantly of four storeys but would step down to three storeys further north. The fourth floor would be partially set back and utilise a contrasting cladding material, beneath which would be a protruding brick soldier course beneath cladding of fourth floor. A similar feature would also be included between ground and first floor. Elsewhere, brick detailing would be of expressed heads arranged in a pattern

next to windows with soldier courses above and below. Protruding balconies would be supported on a metal frame to the ground.

16. The Villas would each be of red brick and three storeys in height. The roof plan shows that they would incorporate several dual pitched elements with a sunken flat roof between. The façades would include projecting gables and a mix of internalised and projecting balconies, again supported by a metal frame, and recessed areas for ground floor apartments. The various elements of brick and other detailing incorporated would be different to those on the Mansions, including panels of alternating recessed courses between fenestration and up to the verge, or solid cladding on gables. There would also be other feature panels, predominantly to the smaller windows serving kitchens, with fixed cladding panels beneath, but also to the side or between other windows.

Effect of the proposal

17. The context of the site is sensitive, but the policies of the Council's Core Strategy (CS) (Adopted July 2014) encourage contemporary design rather than pastiche replicas² and seek to ensure that the massing, scale, height, density, materials, layout, urban form, and architecture of new development contribute positively to an area's character and appearance³. In my reading of the policies, it is not therefore always essential for a proposal to replicate the traditional design, appearance, height, or scale of buildings within an area. Contemporary design can therefore be complimentary with historic development and enrich the townscape but, in order to do so, it should respond well to the spatial and visual characteristics of its context, including the site.
18. The height of the proposed Villas would be similar to the existing buildings and they would be set further back into the site. Their pitched roof form would also reduce the extent of roof required for each block. However, this would not disguise their overall scale, as the depth in their footprint would be considerable and clearly evident at the east and west edges of the site.
19. The top storey of the Mansion block would be set back and incorporate larger areas of glazing set within a darker contrasting cladding system and overhanging canopy and fascia. While this would differentiate it from the floors beneath and add a top to the building like a pitched roof, it would appear top-heavy, thereby drawing attention to the height and scale of the proposed building. Moreover, although the transition between the differing building heights of the Villa and the Mansion blocks would be more subtle, there would be an unsympathetic and abrupt transition from the scale and layout of the surrounding housing, including to flatted blocks to the east.
20. Due to the setback of the Mansion block from the Villas, the link between the corridors of both buildings would dogleg partly along the flank elevation of each building and be set largely against brickwork. The space between and the open section of glass would be of such narrow width that it would hardly be perceptible and would fail to fulfil its function to distinguish the blocks as separate buildings. Similarly, the glazed sections to the front façade of the Villas would be set against the building behind, so would appear as part of the blocks. The vertically glazed sections of the proposal would therefore not function as connections and, together with the setback, they would fail to break

² CS Policy 18.

³ CS Policy 3.

down the overall scale formed by the Villa and Mansion blocks. Some viewpoints would be transitory but they would still essentially be understood as one interconnected building, far greater in scale than that of nearby houses and buildings, including the existing halls of residence, and evidently prominent from Ratcliffe Road.

21. The design approach to the external appearance of the Villas and Mansion blocks has been to utilise different architectural forms and details, some of which I acknowledge are in reference to features within the CA. However, the design response is not appropriate for a building of the size proposed and its sensitive context. Aside from the changes to the plane of the elevations, for a building of such scale the articulation is far too subtle. Amongst other things, the detailing includes variation in the grouping of predominantly tall windows with slender grey framing and some cladding about them, feature brickwork in bands, copings, and patterned areas. Together, these would simply not be sufficient to provide visual contrast to break up the incongruous size of the large and monotonous elevations of the proposed building. Even the visually prominent outer side elevations of the Villas would not be richly animated or provide visual interest. The large scale and mass of the Mansion block would also be readily apparent from Ratcliffe Road and Court, which is perhaps best illustrated in the appellants' Verified Photomontages. These also serve to highlight the lack of variation and visual interest in the proposed scheme.
22. Recessed balconies would provide external space, but these would be so few and far between that they would add little perception of visual depth to create sufficient interest for blocks of the size proposed. The use of projecting balconies, supported on an external frame to the ground, and feature panels to gables on the Villas would also both be unconvincing and cumbersome details that would fail to add to the overall quality of the architectural composition of the building or create a strong visual connection to the locality. In contrast, the projecting entrance feature to the Mansion blocks would not be of such a scale or prominence that it would, of itself, appear obtrusive in the context of the domestic form of the wider building.
23. The proposed bricks and metal windows for the Ratcliff Road frontage and public façades would both be of a higher quality and reflect materials used elsewhere in the CA. Plastic alternatives to the materials would be found to the rear of the site. These would not be contextually appropriate but I am mindful that the A4D enables windows and doors in the CA not facing a highway to be replaced without permission. In any event, the palette of materials is only one contributing factor to the design of buildings, so the use of planning conditions to secure alternatives would not overcome the concerns I have identified with the proposal above. Similarly, due to the scale of the proposed building, the harmful effects associated with its presence within the CA would not be mitigated by the increased distance of the building from the site boundaries or retained and additional planting that could take place around it.
24. Despite the separation distance of the proposed development from the listed building, for the reasons outlined above, the scale and appearance of the closest parts of the proposal that would be apparent from the listed building would be limited due to the presence of existing and proposed planting. Nevertheless, the proposal would be poorly articulated and have greater visual prominence within the site than the existing buildings. While there would

therefore be harm caused to the setting of the Grade II* listed building, the extent of harm would be limited.

25. The proposed allocation of the site in the Council's Emerging Plan⁴ for up to 100 units would appear to be sensible, given its size and proximity to services and facilities and the neutral impact of the existing buildings within the site, which provides an opportunity for enhancement. Redevelopment of the appeal site may therefore necessitate built form of some substance. However, development must be generally of a high quality and responsive to its sensitive heritage context, including houses and buildings of higher architectural status. The extent of units is therefore only one measure of acceptability.
26. The approved scheme of recladding for the existing buildings within the site⁵ would have fundamentally altered their appearance, but the appeal scheme is not for works to the buildings, as they would be demolished in favour of the proposal. I have also been referred to several examples of other developments in the locality, some of which are comparatively modern, including at 36-38 Knighton Drive and 341 London Road. While there are some elements of design that are comparable between the appeal scheme and the examples referred, the overall approach to the scale, mass, architectural form, and detailing of the proposed development would be diametrically opposed. The scheme at Elm Tree Gardens, south of the site, could also not be said to be contiguous with the character of the area. These would not therefore be comparable with the appeal scheme, even so, they would not provide justification for a development that I consider would be harmful to the character and appearance of the CA and setting of the listed building.
27. Similarly, I have had regard to the examples of care schemes, including those by the appellants and that at Elmfield Avenue, and other 'Mansion' blocks. The majority of the former relate to other administrative areas or contexts within Leicester and most of the latter are within the other sub-area of the CA, which has a different character. In any event, for the reasons set out above, the appeal proposal would be harmful within its individual context.
28. In light of the above, the proposed building would be of a considerable height, depth, scale, and mass, and therefore appear significantly larger and domineering than any other building in the immediate context of this part of the CA, including the existing buildings within the site. Furthermore, despite including more detailing than the existing buildings in the site, the proposal would be so lacklustre and uninviting that it would appear as an inadequate element of townscape in its own right and cause significant harm to its surroundings, including the character and appearance of the CA. There would also be a limited amount of harm to the setting of the Grade II* listed building.

Public benefits

29. The statutory duties in Sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) are matters of considerable importance and weight. Paragraph 197 of the Framework states that the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation should be taken into account in determining applications. Paragraph 199 of the

⁴ Leicester City Council Local Plan 2020-2036.

⁵ Planning Ref: 20171735.

Framework also advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to their conservation.

30. The proposal would be harmful to the character and appearance of the CA and the setting of the Grade II* listed building, which would have a harmful effect on their significance as designated heritage assets. In my view the harm that I have identified to the setting of the listed building would equate to less than substantial harm to its significance. This would be a lower order of harm, as only part of the development would be apparent from the curtilage of the listed building. Given the extent of the site and its prominence within the CA, the harm to significance of the CA would be toward the higher end of less than substantial harm. In such circumstances, paragraph 202 of the Framework identifies that this harm should be weighed against the public benefits of proposals. In assessing the weight to be afforded to the benefits, I have also had regard to the appeal decisions referred to in Section 5.9 of the appellants' Hearing Statement.

Housing Land Supply and Specialist Housing

31. The supply of housing land in the city has been agreed by the main parties to stand at 2.8 years, which represents a significant shortfall. The Council also relies on the wider Housing Market Area to meet its need. While the current housing land supply difficulties in the area are likely to be temporary, the net provision of 64 housing units that would result from the proposal would amount to a benefit of considerable weight.
32. Like other proposals for new residential accommodation, the appeal scheme may result in other existing accommodation becoming available, but this benefit could extend beyond the city, so the contribution to addressing housing pressures may not be restricted to Leicester. I therefore only afford this benefit limited weight.
33. The National Planning Practice Guidance (NPPG) sets out that there is a critical need for housing for older people⁶, the Council's Local Housing Needs Assessment⁷ identifies that there is a significant backlog of specialist older persons homes and 1213 units of Extra Care are required over the period 2019-2036. The evidence before me also indicates that very few permissions have been granted for Extra Care units and none are available for sale. The identified need would therefore continue to go unmet without planning permissions to address it, which will unacceptably hinder older persons, potentially leading to needs being met by unsuitable accommodation or force residents to leave the city. Given that the proposal would provide 100 Extra Care units, with a mix in the number of bedrooms, this would constitute a public benefit of significant weight, particularly as it would widen the choice and availability of accommodation for older persons.

Other Benefits

34. The NPPG also accepts that the ability of older people to live independently will help reduce costs to social care and health systems⁸, including through hospital admissions and GP workloads. This would be achieved in the appeal scheme

⁶ Paragraph: 001 Reference ID: 63-001-20190626, Revision date: 26 June 2019.

⁷ Leicester City Local Housing Needs Assessment 2019 (Report of Findings - September 2020).

⁸ See Footnote 6.

through the provision of purposely designed accommodation, tailored care for residents and activities and communal facilities to enable an active social life to tackle isolation. Couples would also be able to continue living together in care. Given the potential number of residents that could benefit from the scheme, these would amount to public benefits of significant weight.

35. There would be a direct benefit to the local economy through permanent jobs created for staff employed in the development, which can be secured by a planning condition, as well as shorter-term employment benefits through the construction phase. Occupants of the proposed apartments would also be likely to contribute to supporting local shops, services, and facilities. These would all constitute benefits in social and economic terms and, given the magnitude of the proposed development, they would be afforded moderate weight.
36. Together with general energy and water efficiency saving in the building design, the use of high efficiency plant and machinery and the inclusion of solar photovoltaic panels on its roofs to generate electricity would reduce energy consumption within the development. There would also be likely to be net gains for biodiversity through landscaping and bat and bird mitigation. These would all amount to environmental benefits of moderate weight.
37. The facilities and services in Leicester can be reached by various means of transport, but I ascribe negligible additional benefit in respect of this matter, as I consider it to be an absence of harm.
38. The Framework is clear that substantial weight should be given to the value of using suitable brownfield land within settlements for homes. The proposal relates to previously developed land and would help to reduce the pressure on undeveloped, greenfield, or protected land, that contributes to the character of the city. Nevertheless, the proposal would not safeguard and improve this particular environment, a key component of the Framework's objective of making effective use of land and Policy H3 of the Local Plan⁹. Seeking to make a more optimal use of land should also not be at the expense of design quality or the creation of high-quality residential environments. For the same reasons, addressing the visual impacts of decline associated with the absence of a current use of the site, should not be at all costs, as this should come in the form of a development that is of high quality and responsive to its context.
39. Taking the above together, while collectively there would be significant public benefits associated with the proposal, the harm that would be caused by allowing development, to the character and appearance of the CA and the setting of the Grade II* listed building, would be of greater significance. Moreover, in accordance with paragraphs 199 and 202 of the Framework, considered together, I conclude that the public benefits do not outweigh the great weight to be given to the less than substantial harm I have identified.

Conclusions on the main issue

40. In light of the above, I conclude that the proposed development would not constitute high quality design and would have a significantly harmful effect on the character and appearance of the CA and there would be harm to the setting of the Grade II* listed building. Hence, the appeal proposal would fail to satisfy the requirements of the Act, paragraphs 197 and 199 of the Framework and

⁹ City of Leicester Local Plan (Adopted January 2006).

conflicts with the design and heritage aims of CS Policies 3 and 18, the Stoneygate Conservation Area Character Statement, paragraphs 124, 126, 130, 132 and 134 of the Framework and the National Design Guide.

Other Matters

41. The Framework stresses the benefits of early engagement and of good quality pre-application discussion and the appellants submitted the proposal following advice received from the Council. At the hearing the main parties engaged in discussion regarding the design rationale of the proposed scheme and how this developed throughout the pre-application and application process. The proposal was amended during the application process and supporting information updated to add clarity. Nevertheless, as part of my statutory duties, I have considered the entirety of the proposal, as determined by the Council, afresh in light of the evidence before me.
42. The appeal site is also near to 34-38 Ratcliffe Road, which is designated as a Grade II listed building. I have therefore had regard to the statutory duty referred to in the Act. However, given the proximity and physical relationship of the proposal with this designated asset, its setting will be preserved and the proposal will not detract from it.

Planning Balance

43. The Council cannot currently demonstrate a five-year supply of deliverable housing sites, as required by the Framework. In these circumstances the so-call tilted balance approach to decision making would normally be engaged but given my findings on the main issue, the conventional untilted planning balance applies.
44. The development plan for the area includes the Council's Core Strategy and Local Plan. While these both predate the current Framework, it is clear that existing policies should not be considered out-of-date simply because they were adopted or made prior to its publication. Due weight should be given to their policies according to their consistency with the Framework.
45. Policy CS03 of the CS is generally consistent with the Framework in terms of its aim to achieve well-designed places. I therefore afford significant weight to the conflict of the proposal with this policy.
46. Despite the absence of a balancing exercise in relation to heritage harms in Policy CS18, this policy is generally consistent with the heritage aims of the Framework, particularly the close relationship between its language and that found in the statutory duties of the Act. I therefore afford considerable weight to the conflict of the proposal with this policy.
47. I have already identified the benefits of the appeal scheme as part of the assessment of public benefits in undertaking the necessary balancing exercise in relation to the heritage assets. The Statement of Common Ground outlines, subject to planning conditions, agreement between the main parties in respect of accordance with relevant Core Strategy and Local Plan Policies and Supplementary Planning Documents regarding living conditions; ecology and biodiversity; flood risk and climate change; and highways, traffic, access, and parking. These matters would therefore neither weigh in favour or against the appeal scheme. In terms of harm, the proposed development would not comply with development plan policy in respect of its failure to create high quality

design and the harm that would be caused by this to the character and appearance of the site and its surroundings, including the Stoneygate Conservation Area and the setting of the Grade II* listed building, known as Inglewood.

48. This leads me to an overall conclusion that the appeal scheme would not accord with the development plan, when considered as a whole, and I find that the adverse impacts of the proposal are matters of great weight against the grant of planning permission that outweigh the claimed benefits.

Conclusion

49. The proposed development would be contrary to the development plan and there are no other considerations, including the provisions of the Framework, which outweigh this finding. Accordingly, for the reasons given, I conclude that the appeal should be dismissed.

Paul Thompson

INSPECTOR

APPEARANCES

FOR THE APPELLANTS:

Mr Jonathan Easton	Barrister, Kings Chambers
Mr Robert Gaskell	Planner, GRL
Mrs Gail Stoten	Heritage, Pegasus Group
Mr Kenneth Brown	Design and Townscape (Townscape Solutions Ltd)

FOR THE LOCAL PLANNING AUTHORITY:

Mr Killian Garvey	Barrister, Kings Chambers
Miss Rebecca Alexander	Urban Design Team
Mr Justin Webber	Senior Building Conservation Officer
Mrs Angela Patterson	Senior Planner

INTERESTED PARTIES

Mr Nick Knight	Stoneygate Conservation Area Society
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DOCUMENTS SUBMITTED AT THE HEARING:

Email from Angela Patterson to Robert Gaskell in relation to ecology and the Ecological Addendum Report (June 2021), which the email refers to.